

Senator Chas Vincent

Senate Natural Resource Chair

February 22, 2013

Testimony

SB 345 - "An Act Revising Laws Related to Liability for Forest or Range Fires; Establishing a Limitation on Real and Personal Property Damages for Forest or Range Fires Caused by Negligent or Unintentional Acts or Omissions; Amending Section 50-63-103, MCA; and Providing an Immediate Effective Date and an Applicability Date."

Mr. Chairman and members of the committee, for the record my name is Julia Altemus, I represent the Montana Wood Products Association in support of SB 345.

The Montana Wood Products Association is comprised of primary and secondary wood manufacturing, and forestland owners. The industry is an interconnected chain of companies specializing in the production and supply of different kinds of goods and services. The wood products sector provides over \$300 million dollars in labor income and \$250 million dollars in sales annually. In addition, several of the mills in Montana also own fee timberlands that are sustainably managed to supply private timber for their mills.

In order to understand the importance of Senate Bill 345, I need to briefly share the circumstances that have lead to our concern and subsequent support of this bill.

On Labor Day, 2007, the Moonlight Fire started on private lands in Plumas County, California. The fire went on to burn approximately 65,000 acres, including 45,000 acres of National Forest System lands. Sierra Pacific Industries had retained a logging contractor to conduct contract logging activities on private forest lands at the time the fire started. The federal government claimed the logging activities started the fire, even when significant evidence existed to the contrary.

The federal government filed suit against the private landowners, the logging contractor and Sierra Pacific Industries for damages to federal lands citing California trespass law. The initial damage claim was for over \$791 million dollars plus interest. This was an amount eight times the pre-fire value of the

property. Damages included loss of environmental services, recreational opportunities and a variety of other intrinsic values.

After three years of contentious litigation, including disclosure of substantial evidence that the fire was not caused by the logging activities - basically the location and ignition source was never proved - the defendants agreed to pay a \$55 million cash settlement, plus Sierra Pacific was ordered to transfer ownership of 22,500 acres of their private timberlands to the federal government. The settlement was triggered by a last minute ruling from a federal district judge citing California state statute indicating that a landowner could be held liable, even for a fire they did not cause. Because Sierra Pacific Industries hired the logging contractor that was blamed for the fire start, and because it was believed the fire started on private timberlands, everyone was ordered to pay the \$55 million cash settlement and sign over 22,500 acres of private, prime timberland to replace the 45,000 federal burned acres.

California state law was used as the basis of the complaint by the US Attorney to prosecute the case. Upon review of the California law and corresponding laws in Montana, it appears there are striking similarities.

The California incident and subsequent settlement has sent shockwaves among the forest products industries in the west. There are very few mills in the west, and none in Montana that could withstand such an attack by the federal government. Since the settlement, several western states have taken a similar remedy path as SB 345.

To be clear, Senate Bill 345 does not prevent the state or private landowners from going after reasonable damages if a fire starts on private land and spreads to state land, or from going after reasonable damages if a fire starts on state land from logging activities. Nor does it preclude the federal government from going after damages under federal statute. This bill does however, prevent the federal government from taking civil action under state law and request unreasonable damages caused by a negligent or unintentional act or omission that is not willful or wanton that spreads to range and forest lands under federal jurisdiction.

Senate Bill 345 provides a level of protection that currently does not exist in state statute. We thank the sponsor and ask for the committee's support.